

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA

v.

RANDALL FISHER HENRY

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NO. 3:20-CR-59


REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b), I conducted an initial appearance and arraignment, immediately followed by plea hearing, in this case on August 11, 2020. Mr. Henry was present b video teleconference, as was his attorney, Mr. Stephen Ross Johnson. In accordance with the plea agreement, Mr. Henry waived his right to an indictment and entered a plea of guilty to Count One of the Information, that is, false labeling of plants (American Ginseng) transported in interstate/foreign commerce and valued over \$350, in violation of 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)(ii), and 18 U.S.C. § 2, in exchange for the undertakings made by the government in the plea agreement.

On the basis of the record made at the hearing, I find the defendant is fully capable and competent to enter an informed plea; the plea is made knowingly and with full understanding of each of the rights waived by defendant; the plea is made voluntarily and free from any force, threats, or promises, apart from the promises in the plea agreement; the defendant understands the nature of the charge and penalties provided by law; and the plea has a sufficient basis in fact.

Therefore, in light of the agreement of the parties and the reasons stated by counsel on the record, I **RECOMMEND** that the Court find that the plea hearing in this case could not be further delayed without serious harm to the interests of justice.

I further **RECOMMEND** that Mr. Henry's guilty plea as to Count One of the Information, that is, false labeling of plants (American Ginseng) transported in interstate/foreign commerce and valued over \$350, in violation of 16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A)(ii), and 18 U.S.C. § 2, be accepted and the Court adjudicate Mr. Henry guilty of the charge in Count One of the Information. I further **RECOMMEND** that Mr. Henry be released on his own recognizance pending sentencing pursuant to the conditions of release identified in the Order Setting Conditions of Release, which will be entered separately. Acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge.


C. Clifford Shirley,
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to *de novo* review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than fourteen (14) days after the plea hearing. Failure to file objections within fourteen (14) days constitutes a waiver of any further right to challenge the plea of guilty in this matter. *See* 28 U.S.C. § 636(b).